

104TH CONGRESS
1ST SESSION

S. 38

To amend the Violent Crime Control and Law Enforcement Act of 1994,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. HATCH (for himself, Mr. DOLE, Mr. THURMOND, Mr. SIMPSON, Mr. GRASSLEY, Mr. KYL, Mr. ABRAHAM, Mr. NICKLES, Mr. GRAMM, Mr. SANTORUM, and Mr. ASHCROFT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Violent Crime Control and Law Enforcement
Act of 1994, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Violent Crime Control
5 and Law Enforcement Amendments Act of 1995”.

6 **SEC. 2. ELIMINATION OF INEFFECTIVE PROGRAMS.**

7 The Violent Crime Control and Law Enforcement Act
8 of 1994 is amended by striking subtitles A, B, C, D, G,

1 H, J, K, O, Q, S, U and X of title III, title V, and title
2 XXVII.

3 **SEC. 3. AMENDMENT OF VIOLENT OFFENDER INCARCER-**
4 **ATION AND TRUTH IN SENTENCING INCEN-**
5 **TIVE GRANT PROGRAM.**

6 (a) IN GENERAL.—Subtitle A of title II of the Violent
7 Crime Control and Law Enforcement Act of 1994 and the
8 amendments made thereby are amended to read as follows:

9 **“Subtitle A—Violent Offender In-**
10 **carceration and Truth in Sen-**
11 **tencing Incentive Grants**

12 **“SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES.**

13 “(a) GRANT AUTHORIZATION.—The Attorney Gen-
14 eral may make grants to individual States and to States
15 organized as multi-State compacts to construct, develop,
16 expand, modify, operate, or improve conventional correc-
17 tional facilities, including prisons and jails, for the con-
18 finement of violent offenders, to ensure that prison cell
19 space is available for the confinement of violent offenders
20 and to implement truth in sentencing laws for sentencing
21 violent offenders.

22 “(b) ELIGIBILITY.—To be eligible to receive a grant
23 under this subtitle, a State or States organized as multi-
24 State compacts shall submit an application to the Attorney
25 General that includes—

1 “(1)(A) except as provided in subparagraph
2 (B), assurances that the State or States have imple-
3 mented, or will implement, correctional policies and
4 programs, including truth in sentencing laws that
5 ensure that violent offenders serve a substantial por-
6 tion of the sentences imposed, that are designed to
7 provide sufficiently severe punishment for violent of-
8 fenders, including violent juvenile offenders, and
9 that the prison time served is appropriately related
10 to the determination that the inmate is a violent of-
11 fender and for a period of time determined to be
12 necessary to protect the public;

13 “(B) in the case of a State that on the date of
14 enactment of the Violent Crime Control and Law
15 Enforcement Amendments Act of 1995, practices
16 indeterminant sentencing, a demonstration that av-
17 erage times served for the offenses of murder, rape,
18 robbery, and assault in the State exceed by at least
19 10 percent the national average of times served for
20 such offenses in all of the States;

21 “(2) assurances that the State or States have
22 implemented policies that provide for the recognition
23 of the rights and needs of crime victims;

24 “(3) assurances that funds received under this
25 section will be used to construct, develop, expand,

1 modify, operate, or improve conventional correctional
2 facilities;

3 “(4) assurances that the State or States have
4 involved counties and other units of local govern-
5 ment, when appropriate, in the construction, devel-
6 opment, expansion, modification, operation, or im-
7 provement of correctional facilities designed to en-
8 sure the incarceration of violent offenders, and that
9 the State or States will share funds received under
10 this section with counties and other units of local
11 government, taking into account the burden placed
12 on these units of government when they are required
13 to confine sentenced prisoners because of overcrowd-
14 ing in State prison facilities;

15 “(5) assurances that funds received under this
16 section will be used to supplement, not supplant,
17 other Federal, State, and local funds;

18 “(6) assurances that the State or States have
19 implemented, or will implement not later than 18
20 months after the date of the enactment of the Vio-
21 lent Crime Control and Law Enforcement Amend-
22 ments Act of 1995, policies to determine the veteran
23 status of inmates and to ensure that incarcerated
24 veterans receive the veterans benefits to which they
25 are entitled; and

1 “(7) if applicable, documentation of the multi-
2 State compact agreement that specifies the construc-
3 tion, development, expansion, modification, oper-
4 ation, or improvement of correctional facilities.

5 **“SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.**

6 “(a) TRUTH IN SENTENCING GRANT PROGRAM.—
7 Fifty percent of the total amount of funds appropriated
8 to carry out this subtitle for each of fiscal years 1996,
9 1997, 1998, 1999, and 2000 shall be made available for
10 Truth in Sentencing Incentive Grants. To be eligible to
11 receive such a grant, a State must meet the requirements
12 of section 20101(b) and shall demonstrate that the
13 State—

14 “(1) has in effect laws that require that persons
15 convicted of violent crimes serve not less than 85
16 percent of the sentence imposed;

17 “(2) since 1993—

18 “(A) has increased the percentage of con-
19 victed violent offenders sentenced to prison;

20 “(B) has increased the average prison time
21 that will be served in prison by convicted violent
22 offenders sentenced to prison; and

23 “(C) has in effect at the time of applica-
24 tion laws requiring that a person who is con-

1 victed of a violent crime shall serve not less
2 than 85 percent of the sentence imposed if—

3 “(i) the person has been convicted on
4 1 or more prior occasions in a court of the
5 United States or of a State of a violent
6 crime or a serious drug offense; and

7 “(ii) each violent crime or serious
8 drug offense was committed after the de-
9 fendant’s conviction of the preceding vio-
10 lent crime or serious drug offense; or

11 “(3) in the case of a State that on the date of
12 enactment of the Violent Crime Control and Law
13 Enforcement Amendments Act of 1995 practices
14 indeterminant sentencing, a demonstration that av-
15 erage times served for the offenses of murder, rape,
16 robbery, and assault in the State exceed by at least
17 10 percent the national average of times served for
18 such offenses in all of the States.

19 “(b) ALLOCATION OF TRUTH IN SENTENCING IN-
20 CENTIVE FUNDS.—The amount made available to carry
21 out this section for any fiscal year shall be allocated to
22 each eligible State in the ratio that the number of part
23 1 violent crimes reported by such State to the Federal Bu-
24 reau of Investigation for the previous year bears to the

1 number of part 1 violent crimes reported by all States to
2 the Federal Bureau of Investigation for the previous year.

3 **“SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS.**

4 “(a) VIOLENT OFFENDER INCARCERATION GRANT
5 PROGRAM.—Fifty percent of the total amount of funds ap-
6 propriated to carry out this subtitle for each of fiscal years
7 1996, 1997, 1998, 1999, and 2000 shall be made available
8 for Violent Offender Incarceration Grants. To be eligible
9 to receive such a grant, a State or States must meet the
10 requirements of section 20101(b).

11 “(b) ALLOCATION OF VIOLENT OFFENDER INCAR-
12 CERATION FUNDS.—

13 “(1) FORMULA ALLOCATION.—0.6 percent shall
14 be allocated to each eligible State except that the
15 United States Virgin Islands, American Samoa,
16 Guam, and the Northern Mariana Islands each shall
17 be allocated 0.05 percent.

18 “(2) REMAINDER.—The amount remaining
19 after application of subparagraph (A) shall be allo-
20 cated to each eligible State in the ratio that the
21 number of part 1 violent crimes reported by such
22 State to the Federal Bureau of Investigation for the
23 previous year bears to the number of part 1 violent
24 crimes reported by all States to the Federal Bureau
25 of Investigation for the previous year.

1 **“SEC. 20104. RULES AND REGULATIONS.**

2 “(a) IN GENERAL.—The Attorney General shall issue
3 rules and regulations regarding the uses of grant funds
4 received under this subtitle not later than 90 days after
5 the date of enactment of the Violent Crime Control and
6 Law Enforcement Amendments Act of 1995.

7 “(b) BEST AVAILABLE DATA.—If data regarding
8 part 1 violent crimes in any State for the previous year
9 is unavailable or substantially inaccurate, the Attorney
10 General shall utilize the best available comparable data re-
11 garding the number of violent crimes for the previous year
12 for that State for the purposes of allocation of any funds
13 under this subtitle.

14 **“SEC. 20105. DEFINITIONS.**

15 “In this subtitle—

16 “(1) the term ‘part 1 violent crimes’ means
17 murder and non-negligent manslaughter, forcible
18 rape, robbery, and aggravated assault as reported to
19 the Federal Bureau of Investigation for purposes of
20 the Uniform Crime Reports;

21 “(2) the term ‘State’ or ‘States’ means a State,
22 the District of Columbia, the Commonwealth of
23 Puerto Rico, the United States Virgin Islands,
24 American Samoa, Guam, and the Northern Mariana
25 Islands; and

1 “(3) the term ‘indeterminate sentencing’ means
 2 a system by which the court has discretion on impos-
 3 ing the actual length of the sentence, up to the stat-
 4 utory maximum and an administrative agency, gen-
 5 erally the parole board, controls release between
 6 court-ordered minimum and maximum sentence.

7 **“SEC. 20106. AUTHORIZATION OF APPROPRIATIONS.**

8 “‘There are authorized to be appropriated to carry out
 9 this subtitle—

10 “(1) \$1,000,000,000 for fiscal year 1996;

11 “(2) \$1,150,000,000 for fiscal year 1997;

12 “(3) \$2,100,000,000 for fiscal year 1998;

13 “(5) \$2,200,000,000 for fiscal year 1999; and

14 “(6) \$2,270,000,000 for fiscal year 2000.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) TECHNICAL AMENDMENT.—The table of
 17 contents for the Violent Crime Control and Law En-
 18 forcement Act of 1994 is amended by striking the
 19 items for subtitle A of title II, and inserting the fol-
 20 lowing:

“Sec. 20101. Grants for correctional facilities.

“Sec. 20102. Truth in sentencing incentive grants.

“Sec. 20103. Violent offender incarceration grants.

“Sec. 20104. Rules and regulations.

“Sec. 20105. Definitions.

“Sec. 20106. Authorization of appropriations.”.

21 (2) CONFORMING AMENDMENT.—Section
 22 310004(d) of the Violent Crime Control and Law

1 Enforcement Act of 1994 is amended in the defini-
2 tion of “State and local law enforcement program”,
3 in paragraph (13), by striking “20101–20109” and
4 inserting “20102–20108”.

5 **SEC. 4. PUNISHMENT FOR YOUNG OFFENDERS.**

6 (a) IN GENERAL.—Subtitle B of title II of the Violent
7 Crime Control and Law Enforcement Act of 1994 and the
8 amendment made by that subtitle is repealed.

9 (b) CONFORMING AMENDMENTS.—The Violent
10 Crime Control and Law Enforcement Act of 1994 is
11 amended—

12 (1) in section 32101, and

13 (2) in section 310004(d), in the definition of
14 “State and local law enforcement program”—

15 (A) in paragraph (14), by inserting “and”
16 at the end;

17 (B) in paragraph (15), by striking “; and”
18 and inserting a period; and

19 (C) by striking paragraph (16).

20 **SEC. 5. INCREASED MANDATORY MINIMUM SENTENCES**
21 **FOR CRIMINALS USING FIREARMS.**

22 Section 924(c)(1) of title 18, United States Code, is
23 amended by inserting after the first sentence the follow-
24 ing: “Except to the extent a greater minimum sentence
25 is otherwise provided by the preceding sentence or by any

1 other provision of this subsection or any other law, a per-
2 son who, during and in relation to any crime of violence
3 or drug trafficking crime (including a crime of violence
4 or drug trafficking crime that provides for an enhanced
5 punishment if committed by the use of a deadly or dan-
6 gerous weapon or device) for which a person may be pros-
7 ecuted in a court of the United States, uses or carries a
8 firearm, shall, in addition to the punishment provided for
9 such crime of violence or drug trafficking crime—

10 “(A) be punished by imprisonment for not less
11 than 10 years;

12 “(B) if the firearm is discharged, be punished
13 by imprisonment for not less than 20 years; and

14 “(C) if the death of a person results, be pun-
15 ished by death or by imprisonment for not less than
16 life.

17 Notwithstanding any other law, the court shall not place
18 on probation or suspend the sentence of any person con-
19 victed of a violation of this subsection, nor shall the term
20 of imprisonment imposed under this subsection run con-
21 currently with any other term of imprisonment including
22 that imposed for the crime of violence or drug trafficking
23 crime in which the firearm was used or carried. No person
24 sentenced under this subsection shall be eligible for parole

1 during the term of imprisonment imposed under this sub-
2 section.”.

3 **SEC. 6. MANDATORY MINIMUM PRISON SENTENCES FOR**
4 **THOSE WHO USE MINORS IN DRUG TRAF-**
5 **FICKING ACTIVITIES.**

6 (a) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF
7 AGE.—Section 420 of the Controlled Substances Act (21
8 U.S.C. 861) is amended—

9 (1) in subsection (b), by adding at the end the
10 following: “Except to the extent a greater minimum
11 sentence is otherwise provided, a term of imprison-
12 ment of a person 21 or more years of age convicted
13 of drug trafficking under this subsection shall be not
14 less than 10 years. Notwithstanding any other law,
15 the court shall not place on probation or suspend the
16 sentence of any person sentenced under the preced-
17 ing sentence.”; and

18 (2) in subsection (c), (penalty for second of-
19 fenses) by inserting after the second sentence the
20 following: “Except to the extent a greater minimum
21 sentence is otherwise provided, a term of imprison-
22 ment of a person 21 or more years of age convicted
23 of drug trafficking under this subsection shall be a
24 mandatory term of life imprisonment. Notwithstand-
25 ing any other law, the court shall not place on pro-

1 bation or suspend the sentence of any person sen-
2 tenced under the preceding sentence.”.

3 **SEC. 7. MANDATORY MINIMUM PRISON SENTENCES FOR**
4 **PERSONS CONVICTED OF DISTRIBUTION OF**
5 **DRUGS TO MINORS.**

6 (a) IN GENERAL.—Section 418 of the Controlled
7 Substances Act (21 U.S.C. 859) is amended—

8 (1) in subsection (a)—

9 (A) by striking “eighteen” and inserting
10 “twenty-one”;

11 (B) by striking “twenty-one” and inserting
12 “eighteen”;

13 (C) by striking “not less than one year”
14 and inserting “not less than ten years”; and

15 (D) by striking the last sentence;

16 (2) in subsection (b)—

17 (A) by striking “at least eighteen” and in-
18 sserting “at least twenty-one”;

19 (B) by striking “under twenty-one” and in-
20 sserting “under eighteen”;

21 (C) by striking “not less than one year”
22 and inserting “a mandatory term of life impris-
23 onment”; and

24 (D) by striking the last sentence;

1 (3) by adding at the end the following new sub-
2 section:

3 “(c) OFFENSES INVOLVING SMALL QUANTITIES OF
4 MARIJUANA.—The mandatory minimum sentencing provi-
5 sions of this section shall not apply to offenses involving
6 five grams or less of marijuana.”; and

7 (4) by amending the section heading to read as
8 follows:

9 “DISTRIBUTION TO PERSONS UNDER AGE EIGHTEEN”.

10 (b) TECHNICAL AMENDMENT.—The table of contents
11 for the Controlled Substances Act is amended in the part
12 relating to title D, by striking the items for sections 416
13 through 422, and inserting the following:

“Sec. 416. Establishment of manufacturing operations.

“Sec. 417. Endangering human life while illegally manufacturing a controlled
substance.

“Sec. 418. Distribution to persons under age eighteen.

“Sec. 419. Distribution or manufacturing in or near schools and colleges.

“Sec. 420. Employment or use of persons under 18 years of age in drug oper-
ations.

“Sec. 421. Denial of Federal benefits to drug traffickers and possessors.

“Sec. 422. Drug paraphernalia.”.

14 **SEC. 8. PENALTIES FOR DRUG OFFENSES IN DRUG-FREE**
15 **ZONES.**

16 (a) REPEAL.—Section 90102 of the Violent Crime
17 Control and Law Enforcement Act of 1994 is repealed.

18 (b) IN GENERAL.—Section 419 of the Controlled
19 Substances Act (21 U.S.C. 860) is amended—

20 (1) in subsection (a)—

1 (A) by striking “not less than one year”
2 and inserting “not less than five years”; and

3 (B) by striking the last sentence;

4 (2) in subsection (b), by striking “not less than
5 three years” and inserting “not less than ten years”;

6 (3) by redesignating subsections (c) and (d) as
7 subsections (d) and (e), respectively; and

8 (4) by inserting after subsection (b), the follow-
9 ing new subsection (c):

10 “(c) The mandatory minimum sentencing provisions
11 of this section shall not apply to offenses involving five
12 grams or less of marijuana.”.

13 **SEC. 9. FLEXIBILITY IN APPLICATION OF MANDATORY MIN-**
14 **IMUM SENTENCE PROVISIONS IN CERTAIN**
15 **CIRCUMSTANCES.**

16 (a) AMENDMENT OF TITLE 18, UNITED STATES
17 CODE.—Section 3553 of title 18, United States Code, is
18 amended by adding at the end the following new sub-
19 section:

20 “(f) MANDATORY MINIMUM SENTENCE PROVI-
21 SIONS.—

22 “(1) SENTENCING UNDER THIS SECTION.—In
23 the case of an offense described in paragraph (2),
24 the court shall, notwithstanding the requirement of
25 a mandatory minimum sentence in that section, im-

1 pose a sentence in accordance with this section and
2 the sentencing guidelines and any pertinent policy
3 statement issued by the United States Sentencing
4 Commission.

5 “(2) OFFENSES.—An offense is described in
6 this paragraph if—

7 “(A) the defendant is subject to a manda-
8 tory minimum term of imprisonment under sec-
9 tion 401 or 402 of the Controlled Substances
10 Act (21 U.S.C. 841 and 844) or section 1010
11 of the Controlled Substances Import and Ex-
12 port Act (21 U.S.C. 960);

13 “(B) the defendant does not have—

14 “(i) any criminal history points under
15 the sentencing guidelines; or

16 “(ii) any prior conviction, foreign or
17 domestic, for a crime of violence against a
18 person or a drug trafficking offense that
19 resulted in a sentence of imprisonment (or
20 an adjudication as a juvenile delinquent for
21 an act that, if committed by an adult,
22 would constitute a crime of violence
23 against a person or a drug trafficking of-
24 fense);

1 “(C) the offense did not result in death or
2 serious bodily injury (as defined in section
3 1365) to any person—

4 “(i) as a result of the act of any per-
5 son during the course of the offense; or

6 “(ii) as a result of the use by any per-
7 son of a controlled substance that was in-
8 volved in the offense;

9 “(D) the defendant did not carry or other-
10 wise have possession of a firearm (as defined in
11 section 921) or other dangerous weapon during
12 the course of the offense and did not direct an-
13 other person to carry a firearm and the defend-
14 ant had no knowledge of any other conspirator
15 involved in the offense possessing a firearm;

16 “(E) the defendant was not an organizer,
17 leader, manager, or supervisor of others (as de-
18 fined or determined under the sentencing guide-
19 lines) in the offense;

20 “(F) the defendant did not use, attempt to
21 use, or make a credible threat to use physical
22 force against the person of another during the
23 course of the offense;

1 “(G) the defendant did not own the drugs,
2 finance any part of the offense, or sell the
3 drugs; and

4 “(H) the Government certifies that the de-
5 fendant has timely and truthfully provided to
6 the Government all information and evidence
7 the defendant has concerning the offense or of-
8 fenses that were part of the same course of con-
9 duct or of a common scheme or plan.”.

10 (b) HARMONIZATION.—

11 (1) IN GENERAL.—The United States Sentenc-
12 ing Commission—

13 (A) may make such amendments as it
14 deems necessary and appropriate to harmonize
15 the sentencing guidelines and policy statements
16 with section 3553(f) of title 18, United States
17 Code, as added by subsection (a), and promul-
18 gate policy statements to assist the courts in in-
19 terpreting that provision; and

20 (B) shall amend the sentencing guidelines,
21 if necessary, to assign to an offense under sec-
22 tion 401 or 402 of the Controlled Substances
23 Act (21 U.S.C. 841 and 844) or section 1010
24 of the Controlled Substances Import and Ex-
25 port Act (21 U.S.C. 960) to which a mandatory

1 minimum term of imprisonment applies, a
2 guideline level that will result in the imposition
3 of a term of imprisonment at least equal to the
4 mandatory term of imprisonment that is cur-
5 rently applicable, unless a downward adjust-
6 ment is authorized under section 3553(f) of
7 title 18, United States Code, as added by sub-
8 section (a).

9 (2) EMERGENCY AMENDMENTS.—If the Com-
10 mission determines that an expedited procedure is
11 necessary in order for amendments made pursuant
12 to paragraph (1) to become effective on the effective
13 date specified in subsection (c), the Commission may
14 promulgate such amendments as emergency amend-
15 ments under the procedures set forth in section
16 21(a) of the Sentencing Act of 1987 (Public Law
17 100–182; 101 Stat. 1271), as though the authority
18 under that section had not expired.

19 (c) EFFECTIVE DATE.—The amendment made by
20 subsection (a) and any amendments to the sentencing
21 guidelines made by the United States Sentencing Commis-
22 sion pursuant to subsection (b) shall apply with respect
23 to sentences imposed for offenses committed on or after
24 the date that is 60 days after the date of enactment of

1 the Violent Crime Control and Law Enforcement Amend-
2 ments Act of 1995.

3 (d) REPEAL OF TITLE VIII OF VIOLENT CRIME CON-
4 TROL AND LAW ENFORCEMENT ACT OF 1994.—Title VIII
5 of the Violent Crime Control and Law Enforcement Act
6 of 1994 and the amendments made by that title are re-
7 pealed effective as of the effective date specified in sub-
8 section (c).

9 **SEC. 10. MANDATORY RESTITUTION TO VICTIMS OF VIO-**
10 **LENT CRIMES.**

11 (a) ORDER OF RESTITUTION.—Section 3663 of title
12 18, United States Code, is amended—

13 (1) in subsection (a)—

14 (A) by striking “may order” and inserting
15 “shall order”; and

16 (B) by adding at the end the following new
17 paragraph:

18 “(4) In addition to ordering restitution of the victim
19 of the offense of which a defendant is convicted, a court
20 may order restitution of any person who, as shown by a
21 preponderance of evidence, was harmed physically or pecu-
22 niarily, by unlawful conduct of the defendant during—

23 “(A) the criminal episode during which the of-
24 fense occurred; or

1 “(B) the course of a scheme, conspiracy, or pat-
2 tern of unlawful activity related to the offense.”;

3 (2) in subsection (b)(1)(A) by striking “imprac-
4 tical” and inserting “impracticable”;

5 (3) in subsection (b)(2) by inserting “emotional
6 or” after “resulting in”;

7 (4) in subsection (c) by striking “If the Court
8 decides to order restitution under this section, the”
9 and inserting “The”;

10 (5) by striking subsections (d), (e), (f), (g), and
11 (h); and

12 (6) by adding at the end the following new sub-
13 sections:

14 “(d)(1) The court shall order restitution to a victim
15 in the full amount of the victim’s losses as determined by
16 the court and without consideration of—

17 “(A) the economic circumstances of the of-
18 fender; or

19 “(B) the fact that a victim has received or is
20 entitled to receive compensation with respect to a
21 loss from insurance or any other source.

22 “(2) Upon determination of the amount of restitution
23 owed to each victim, the court shall specify in the restitu-
24 tion order the manner in which and the schedule according
25 to which the restitution is to be paid, in consideration of—

1 “(A) the financial resources and other assets of
2 the offender;

3 “(B) projected earnings and other income of
4 the offender; and

5 “(C) any financial obligations of the offender,
6 including obligations to dependents.

7 “(3) A restoration order may direct the offender to
8 make a single, lump-sum payment, partial payment at
9 specified intervals, or such in-kind payments as may be
10 agreeable to the victim and the offender.

11 “(4) An in-kind payment described in paragraph (3)
12 may be in the form of—

13 “(A) return of property;

14 “(B) replacement of property; or

15 “(C) services rendered to the victim or to a per-
16 son or organization other than the victim.

17 “(e) When the court finds that more than 1 offender
18 has contributed to the loss of a victim, the court may make
19 each offender liable for payment of the full amount of res-
20 titution or may apportion liability among the offenders to
21 reflect the level of contribution and economic cir-
22 cumstances of each offender.

23 “(f) When the court finds that more than 1 victim
24 has sustained a loss requiring restitution by an offender,
25 the court shall order full restitution of each victim but may

1 provide for different payment schedules to reflect the eco-
2 nomic circumstances of each victim.

3 “(g) (1) If the victim has received or is entitled to re-
4 ceive compensation with respect to a loss from insurance
5 or any other source, the court shall order that restitution
6 be paid to the person who provided or is obligated to pro-
7 vide the compensation, but the restitution order shall pro-
8 vide that all restitution of victims required by the order
9 be paid to the victims before any restitution is paid to
10 such a provider of compensation.

11 “(2) The issuance of a restitution order shall not af-
12 fect the entitlement of a victim to receive compensation
13 with respect to a loss from insurance or any other source
14 until the payments actually received by the victim under
15 the restitution order fully compensate the victim for the
16 loss, at which time a person that has provided compensa-
17 tion to the victim shall be entitled to receive any payments
18 remaining to be paid under the restitution order.

19 “(3) Any amount paid to a victim under an order of
20 restitution shall be set off against any amount later recov-
21 ered as compensatory damages by the victim in—

22 “(A) any Federal civil proceeding; and

23 “(B) any State civil proceeding, to the extent
24 provided by the law of the State.

25 “(h) A restitution order shall provide that—

1 “(1) all fines, penalties, costs, restitution pay-
2 ments and other forms of transfers of money or
3 property made pursuant to the sentence of the court
4 shall be made by the offender to an entity des-
5 ignated by the Director of the Administrative Office
6 of the United States Courts for accounting and pay-
7 ment by the entity in accordance with this sub-
8 section;

9 “(2) the entity designated by the Director of
10 the Administrative Office of the United States
11 Courts shall—

12 “(A) log all transfers in a manner that
13 tracks the offender’s obligations and the cur-
14 rent status in meeting those obligations, unless,
15 after efforts have been made to enforce the res-
16 titution order and it appears that compliance
17 cannot be obtained, the court determines that
18 continued recordkeeping under this subpara-
19 graph would not be useful; and

20 “(B) notify the court and the interested
21 parties when an offender is 90 days in arrears
22 in meeting those obligations; and

23 “(3) the offender shall advise the entity des-
24 ignated by the Director of the Administrative Office
25 of the United States Courts of any change in the of-

1 fender’s address during the term of the restitution
2 order.

3 “(i) A restitution order shall constitute a lien against
4 all property of the offender and may be recorded in any
5 Federal or State office for the recording of liens against
6 real or personal property.

7 “(j) Compliance with the schedule of payment and
8 other terms of a restitution order shall be a condition of
9 any probation, parole, or other form of release of an of-
10 fender. If a defendant fails to comply with a restitution
11 order, the court may revoke probation or a term of super-
12 vised release, modify the term or conditions of probation
13 or a term of supervised release, hold the defendant in con-
14 tempt of court, enter a restraining order or injunction,
15 order the sale of property of the defendant, accept a per-
16 formance bond, or take any other action necessary to ob-
17 tain compliance with the restitution order. In determining
18 what action to take, the court shall consider the defend-
19 ant’s employment status, earning ability, financial re-
20 sources, the willfulness in failing to comply with the res-
21 titution order, and any other circumstances that may have
22 a bearing on the defendant’s ability to comply with the
23 restitution order.

24 “(k) An order of restitution may be enforced—

25 “(1) by the United States—

1 “(A) in the manner provided for the collec-
2 tion and payment of fines in subchapter (B) of
3 chapter 229 of this title; or

4 “(B) in the same manner as a judgment in
5 a civil action; and

6 “(2) by a victim named in the order to receive
7 the restitution, in the same manner as a judgment
8 in a civil action.

9 “(l) A victim or the offender may petition the court
10 at any time to modify a restitution order as appropriate
11 in view of a change in the economic circumstances of the
12 offender.”.

13 (b) PROCEDURE FOR ISSUING ORDER OF RESTITU-
14 TION.—Section 3664 of title 18, United States Code, is
15 amended—

16 (1) by striking subsection (a);

17 (2) by redesignating subsections (b), (c), (d),
18 and (e) as subsections (a), (b), (c), and (d);

19 (3) by amending subsection (a), as redesignated
20 by paragraph (2), to read as follows:

21 “(a) The court may order the probation service of the
22 court to obtain information pertaining to the amount of
23 loss sustained by any victim as a result of the offense,
24 the financial resources of the defendant, the financial
25 needs and earning ability of the defendant and the defend-

1 ant's dependents, and such other factors as the court
2 deems appropriate. The probation service of the court
3 shall include the information collected in the report of
4 presentence investigation or in a separate report, as the
5 court directs."; and

6 (4) by adding at the end thereof the following
7 new subsection:

8 "(e) The court may refer any issue arising in connec-
9 tion with a proposed order of restitution to a magistrate
10 or special master for proposed findings of fact and rec-
11 ommendations as to disposition, subject to a de novo de-
12 termination of the issue by the court."

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